

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

THE UNITED STATES OF AMERICA

§

V.

§

CASE NO. 4:07cv100

ALBERT LYNN BARCROFT

§

**MEMORANDUM ADOPTING REPORT AND
RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the report of the United States Magistrate Judge in this action, this matter having been referred to the United States Magistrate Judge pursuant to 28 U.S.C. § 636. On May 23, 2008, the report of the Magistrate Judge was entered containing proposed findings of fact and recommendations that Counterclaim Defendant, FIA Card Services, N.A.'s (incorrectly named Bank of America) Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(b)(2), 12(b)(5) and 12(b)(6) (Dkt. 89) be GRANTED and that Counterclaim Defendant, FIA Card Services, N.A.'s (incorrectly named Bank of America) Motion for More Definite Statement Pursuant to Fed. R. Civ. P. 12(e) (Dkt. 91) be DENIED as MOOT.

The Court, having made a *de novo* review of the objections raised by Pam Kay Barcroft (Dkt. 165) and Albert Lynn Barcroft (Dkt. 176), is of the opinion that the findings and conclusions of the Magistrate Judge are correct. Despite the objections, Albert Lynn Barcroft has still not filed a response to the motion or otherwise stated on the record why the motion lacks merit. Therefore, the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of this Court.

Counterclaim Defendant, FIA Card Services, N.A.'s (incorrectly named Bank of America) Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(b)(2), 12(b)(5) and 12(b)(6) (Dkt. 89) is GRANTED, Counterclaim Defendant, FIA Card Services, N.A.'s (incorrectly named Bank of America) Motion for More Definite Statement Pursuant to Fed. R. Civ. P. 12(e) (Dkt. 91) is DENIED as MOOT, and all claims against FIA Card Services, N.A.'s (incorrectly named Bank of America) in this matter are DISMISSED with PREJUDICE.

IT IS SO ORDERED.

SIGNED this 17th day of July, 2008.



MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE